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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/919,584	07/30/2001	Peter W.J. Jones	TBRX-P01-001	2595
28120 7590 09/24/2008 ROPES & GRAY LLP PATENT DOCKETING 39/41 ONE INTERNATIONAL PLACE BOSTON, MA 02110-2624				
EXAMINER				
WANG, JIN CHENG				
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09/24/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte PETER W.J. JONES and DENNIS W. PURCELL

Application 09/919,584
Technology Center 2600

Mailed: September 24, 2008

Before KRISTA ZELE, *Deputy Chief Appeals Administrator*.
ZELE, *Deputy Chief Appeals Administrator*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on July 15, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

APPEAL BRIEF, SUMMARY OF CLAIMED SUBJECT MATTER

Appellant filed an Appeal Brief dated April 30, 2007. The Appeal Brief is not in compliance with 37 C.F.R. § 41.37(c) effective September 13, 2004.

According to 37 C.F.R. § 41.37(c)(v), an Appeal Brief must include the following:

(v) *Summary of claimed subject matter.* A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

The “SUMMARY OF CLAIMED SUBJECT MATTER” appearing on page 2 of the Appeal Brief filed April 30, 2007 is deficient because it does not separately map independent claims 1, 12, and 13 to the Specification. Correction is required.

MPEP § 1205.03 states in part:

(B) When the Office holds the brief to be defective solely due to appellant’s failure to provide a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v), an entire new brief need

not, and should not, be filed. Rather, a paper providing a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v) will suffice. Failure to timely respond to the Office's requirement will result in dismissal of the appeal. See MPEP § 1215.04 and § 711.02(b).

CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner:

- 1) to hold the Appeal Brief filed April 30, 2007 defective, as required by 37 C.F.R. § 41.37(d);
- 2) to notify the Appellants to submit a "paper" which corrects the Appeal Brief's Summary of Claimed Subject Matter under 37 C.F.R. § 41.37(c)(1)(v);
- 3) to acknowledge and consider any "paper" submitted by Appellant to correct the Appeal Brief;
- 4) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

KZ/hh

ROPES & GRAY, LLP
PATENT DOCKETING 39/41
ONE INTERNATIONAL PLACE
BOSTON, MA 02110-2624